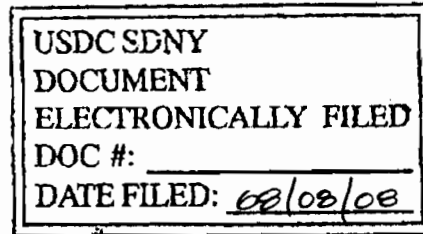


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
TERRENCE NESMITH,

Petitioner,

-against-

SUPERINTENDENT MARK D. BRADT,

Respondent.
-----X

KEVIN NATHANIEL FOX,
UNITED STATES MAGISTRATE JUDGE

ORDER

08 Civ. 6546 (SHS)(KNF)

TERRENCE NESMITH has petitioned this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, I have considered the petition preliminarily and direct that:

- (1) The respondent shall serve and file an answer or other response on or before October 1, 2008. The answer or other response shall include such information as may be necessary for this Court to ascertain whether the petitioner has exhausted his state court remedies. Transcripts of all relevant proceedings, the briefs submitted on appeal, and the record in any state post-conviction proceedings shall be submitted by the respondent in conjunction with the answer or other response; and
- (2) the petitioner may serve and file a reply on or before November 1, 2008.
- (3) Should the respondent determine to move with respect to the petition:
 - (a) the motion shall be served and filed on or before October 1, 2008;
 - (b) the petitioner shall serve and file any response to the motion on or before November 1, 2008;

- (c) any reply shall be served and filed on or before December 1, 2008; and
- (d) should the petitioner fail to serve and file any response to the motion, or fail to seek an extension of the time in which to do so, the Court shall consider the respondent's motion to be unopposed.

The Clerk of the Court is directed to serve, by Certified Mail, Return Receipt Requested, a copy of this Order and the underlying petition on counsel for the respondent, Andrew M.

Cuomo, Attorney General of the State of New York, attention "Section H."

Dated: New York, New York
August 7, 2008

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

Copy mailed to:

Terrence Nesmith